

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SMARTWATCH MOBILE CONCEPTS, LLC,
Plaintiff,

v.

T-MOBILE USA, INC.,
Defendant

Civil Action No. 6:23-cv-00400-DC-DTG

AGREED SCHEDULING ORDER

Plaintiff, SmartWatch Mobile Concepts, LLC, (“SmartWatch”) and Defendant, T-Mobile USA, Inc., (“T-Mobile”) hereby provide the following proposed Scheduling Order in accordance with the Court’s April 4, 2023 Standing Order Governing Proceedings (OGP) 4.3—Patent Cases:

Deadline	Item
11/20/2023	Deadline to file a motion for inter-district transfer. After this deadline, movants must seek leave of Court and show good cause for the delay.
10/23/2023	Plaintiff serves preliminary ¹ infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (<i>i.e.</i> the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.

¹ The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

11/13/2023	The Parties shall file a motion to enter an agreed Scheduling Order. If the parties cannot agree, the parties shall submit a separate Joint Motion for entry of Scheduling Order briefly setting forth their respective positions on items where they cannot agree. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
12/18/2023	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).
01/02/2024	Parties exchange claim terms for construction.
01/16/2024	Parties exchange proposed claim constructions.
01/22/2024	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. ² With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
01/29/2024	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
02/05/2024	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
02/26/2024	Plaintiff files Responsive claim construction brief.
03/11/2024	Defendant files Reply claim construction brief.
03/11/2024	Parties to jointly email the law clerks: TXWDml_NoJudge_Chambers_WA_JudgeGilliland@txwd.us to confirm their <i>Markman</i> date, and to notify if any venue or jurisdictional motions remain unripe for resolution.

² Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

03/25/2024	Plaintiff files a Sur-Reply claim construction brief.
03/28/2024	Parties submit Joint Claim Construction Statement and email the law clerks an editable copy. <i>See</i> General Issues Note #7 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
3/29/2024	Parties submit optional technical tutorials to the Court and technical adviser (if appointed).
04/08/2024	<i>Markman</i> Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the Markman hearing approaches.
04/09/2024	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
05/20/2024	Deadline to add parties.
06/03/2024	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to infringement or invalidity contentions. This deadline does not relieve the parties of their obligation to seasonably amend if new information is identified after initial contentions.
07/29/2024	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
10/07/2024	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
11/04/2024	Close of Fact Discovery.
11/11/2024	Opening Expert Reports.
12/09/2024	Rebuttal Expert Reports.
12/30/2024	Close of Expert Discovery.

01/06/2025	Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. If it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
01/13/2025	Dispositive motion deadline and <i>Daubert</i> motion deadline. See General Issues Note #7 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
01/27/2025	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, and deposition designations).
02/10/2025	Serve objections to pretrial disclosures/rebuttal disclosures.
02/17/2025	Serve objections to rebuttal disclosures; file Motions <i>in limine</i> .
02/24/2025	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, and deposition designations); file oppositions to motions <i>in limine</i>
03/03/2025	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com Deadline to file replies to motions <i>in limine</i> .
03/10/2025	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
02/10/2025	Parties to jointly email the Court's law clerk to confirm pretrial conference and trial dates: TXWDml.NoJudge.Chambers.WA.JudgeGilliland@txwd.us courts.gov
03/12/2025	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
03/17/2025	Final Pretrial Conference. Held in person unless otherwise requested.

04/07/2025	Jury Selection/Trial.
------------	-----------------------

Dated: November 8, 2023

Respectfully submitted,

Ramey LLP

/s/ William P. Ramey, III
William P. Ramey, III
Texas Bar No. 24027643
5020 Montrose Blvd., Suite 800
Houston, Texas 77006
(713) 426-3923 (telephone)
(832) 900-4941 (fax)
wramey@rameyfirm.com

***Attorneys for SmartWatch Mobile Concepts,
LLC***

/s/ Bradford A. Cangro
Bradford A. Cangro (Admitted in TXWD)
D.C. Bar No. 495996
PV Law LLP
5335 Wisconsin Avenue, N.W.
Suite 440
Washington, D.C. 20015
T: 202.869.4667
F: 202.888.3163
bradford.cangro@pvuslaw.com

Melissa R. Smith
State Bar No. 24001351
GILLIAM & SMITH, LLP
303 South Washington Avenue
Marshall, Texas 75670
T: 903.934.8450
F: 903.934.9257
melissa@gilliamsmithlaw.com

Attorneys for Defendant T-Mobile USA, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing document has been served on November 8, 2023, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ William P. Ramey, III
William P. Ramey, III